

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CARLOS RUIZ FLOREZ,
Plaintiff,

vs.

40-56 JUNCTION BOULEVARD LLC and
DON FRANCISCO RESTAURANT, INC.,
Defendants.

Case No.: 21-cv-06082-BMC

FINAL DEFAULT JUDGMENT FOR INJUNCTIVE RELIEF

THIS ACTION, having been commenced on November 1, 2021 by the filing of the Complaint [DE#1], and the Complaint [DE#1] having been served on both of the Defendants, 40-56 JUNCTION BOULEVARD LLC and DON FRANCISCO RESTAURANT, INC., on November 5, 2021 via the Secretary of State as their authorized agent for service of process, and with proof of service having been filed [DE#9, DE#10], and the Defendants having not appeared or answered the Complaint [DE#1], and the time for answering the Complaint [DE#1] having expired, it is hereby

ORDERED, ADJUDGED, and DECREED that the Plaintiff have Final Default Judgment against Defendants, 40-56 JUNCTION BOULEVARD LLC and DON FRANCISCO RESTAURANT, INC. (“Defendants”), as follows:

A) Defendants shall be required apply for, obtain, and cause the removal and remediation of the following barriers to access which exist in violation of Title III of the Americans with Disabilities Act 42 U.S.C. § 12181, *et seq.*, within 90 days following the date of the Court’s entry of this Final Default Judgment:

Secondary Door

- (1) Rework door side partition to provide the required 18” (457 mm) min. maneuvering clearance on the pull side of the door beyond the latch side

and 60" (1524 mm) min. deep clear floor leveled area with slopes not exceeding 1:48 (2010 ADA Fig. 404.2.4.1);

- (2) Rework door threshold to provide a 0.25" (6 mm) max. change of level, beveled with a slope no greater than 1:48 (ADAAG Fig. 303.3);
- (3) Provide a 0.25"-0.5" (6 mm-12 mm) max. change of level, beveled with a slope no greater than 1:2 or mitigate condition by means of a curb ramp or ramp (2010 ADA Fig. 303.3);

Main Entrance

- (4) Rework door side partition to provide the required 18" (457 mm) min. maneuvering clearance on the pull side of the door beyond the latch side and 60" (1524 mm) min. deep clear floor leveled area with slopes not exceeding 1:48 (2010 ADA Fig. 404.2.4.1);
- (5) Rework door threshold to provide a 0.25" (6 mm) max. change of level, beveled with a slope no greater than 1:48 (ADAAG Fig. 303.3);
- (6) Rework accessible route to provide a 0.25"-0.5" (6 mm-12 mm) max. change of level, beveled with a slope no greater than 1:2 or mitigate condition by means of a curb ramp or ramp (2010 ADA Fig. 303.3);

Dining Counter

- (7) Rework (cut out) a portion of the main counter surface and mount between 28" (710 mm) min. and 34" (865 mm) max. above the finished floor or ground with a corresponding 30" by 48" (762 mm by 1219 mm) clear floor space, 27" (685 mm) min. bottom knee clearance above the finished floor and a 17" (430 mm) horizontal projection.);

Seating Area

- (8) Replace tables and/or counter to provide 5% or at least one accessible table or counter mounted between 28" (710 mm) min. and 34" (865 mm) max. above the finished floor or ground. Provide table with a corresponding 30" by 48" (762 mm by 1219 mm) clear floor space, 27" (685 mm) min. bottom knee clearance above the finished floor and a 17" (430 mm) horizontal projection;

Public Restroom

- (9) Provide signage on latch side with raised characters and grade 2 Braille, mounted at 48 inches min. measured from the baseline of the lowest tactile character and 60 inches max. to the baseline of the highest tactile character (2010 ADA Fig. 703.4.1);
- (10) Rework doorway (partition) to provide the required 32" (812 mm) min. clear door or entryway width (2010 ADA Fig. 404.2.3);

- (11) Rework partitions and/or fixtures to provide the required 60" by 56" (1524 mm by 1422 mm) min. clearance around the water closet (2010 ADA Fig. 604.3.1);
- (12) Reverse door swing or reconfigure fixtures and/or offset partitions to provide a 30" by 48" (762 mm by 1219 mm) min. lavatory clear floor space (2010 ADA Fig. 305);
- (13) Relocate encroaching item to provide the required 18" (457 mm) min. maneuvering clearance on the pull side of the door beyond the latch side and 60" (1524 mm) min. deep clear floor leveled area with slopes not exceeding 1:48 (2010 ADA Fig. 404.2.4.1);
- (14) Relocate encroaching item to provide the required 18" (457 mm) min. maneuvering clearance on the pull side of the door beyond the latch side and 60" (1524 mm) min. deep clear floor leveled area with slopes not exceeding 1:48 (2010 ADA Fig. 404.2.4.1);
- (15) Rework door side partition to provide the required 18" (457 mm) min. maneuvering clearance on the pull side of the door beyond the latch side and 60" (1524 mm) min. deep clear floor leveled area with slopes not exceeding 1:48 (2010 ADA Fig. 404.2.4.1);
- (16) Replace or retrofit door knob with system operable with one hand, not requiring pinching, tight grasping or turning of the wrist to operate;
- (17) Replace or retrofit door lock with system operable with one hand, not requiring pinching, tight grasping or turning of the wrist to operate;
- (18) Reconfigure room's fixtures and/or offset partitions to provide the required clear 60" (1524 mm) min. diameter wheelchair turnaround space or a T-shaped space (2010 ADA Fig. 304.3.2);
- (19) Rework lavatory to provide the required 27" (685 mm) min. knee clearance above the finished floor to bottom leading edge of fixture at an 8" (203 mm) min. horizontal projection (2010 ADA Fig. 306.3);
- (20) Reverse door swing or reconfigure fixtures and/or offset partitions to provide a 30" by 48" (762 mm by 1219 mm) min. lavatory clear floor space (2010 ADA Fig. 305);
- (21) Reconfigure restroom's fixtures and/or offset partitions to provide the required 60" by 56" (1524 mm by 1422 mm) min. clearance around the water closet (2010 ADA Fig. 604.3.1);
- (22) Reconfigure restroom's fixtures and/or offset partitions to provide the required 60" by 56" (1524 mm by 1422 mm) min. clearance around the water closet (2010 ADA Fig. 604.3.1);
- (23) Lower or install paper towel dispenser at 48" (1219 mm) max. above the finished floor to highest operable part for forward approach to object (2010 ADA Fig. 308.3.1);

- (24) Lower lavatory mirror to 40" (1016 mm) max. above the finished floor to bottom edge of its reflecting surface;
- (25) Install a 36" (914 mm) min. long rear wall grab bar and mount between 33" and 36" (838 mm - 914 mm) above the finished floor to the top of the gripping surface (2010 ADA Fig. 604.5.2);
- (26) Install a 42" (1066 mm) min. long side wall grab bar at 54" (1371 mm) min. from rear wall to centerline of outer flange and mount at 33" and 36" (838 mm - 914 mm) above the finished floor to the top of the gripping surface (ADAAG Fig. 604.5.1); and
- (27) Relocate water closet and center between 16" and 18" (406 mm - 457 mm) from side wall (2010 ADA Fig. 604.2).

B) Plaintiff shall serve a copy of this Default Final Judgment by Certified U.S. Mail and file proof of such service on the record.

C) Plaintiff shall have 180 days after date of the Court's entry of this Final Default Judgment to file a motion to tax costs and award reasonable attorney's fees after the Defendants' (90-day) deadline for compliance to inspect, review, assess, photograph, and/or document Defendants' compliance or non-compliance with this Default Final Judgment for Injunctive Relief and shall file all an affirmation in support of that motion, a copy of Plaintiff's fee statements or time entry billing, and receipts for costs sought in said motion.

DONE and ORDERED in New York, New York, this _9th day of February, 2022.

Digitally signed by Brian
M. Cogan 

HONORABLE BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK